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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
EUGENE DIVISION

12 MBE Inc., an Oregon corporation,
13 Plaintiff,

14 vs.

15 BARBARA NORRIS; LAW OFFICE OF
16 BARBARA A. NORRIS, LLC, an Alaska
17 limited liability company; TONJA
18 WOELBER; TONJA WOELBER,
19 ATTORNEY AT LAW, P.C., an Alaska
20 professional corporation; and WOELBER &
PASSARD, LLC, an Alaska limited liability
company,
Defendants.

Case No. 6:19-cv-00161

COMPLAINT

*(Negligence – Legal Malpractice; Breach
of Fiduciary Duty; Breach of Contract;
Indemnity)*

18 U.S.C. § 1332(a)

Amount in Controversy:
\$80,000, not fully liquidated

DEMAND FOR JURY TRIAL

21 Plaintiff, by and through counsel, hereby demands a jury trial and alleges as
22 follows:

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1 **PARTIES**

2 1.

3 Plaintiff MBE Inc. (hereafter “Plaintiff”) has been assigned all right, title and
4 interest to Philip Jones’s (hereafter “Client”) claims against Defendants, his former
5 attorneys. Plaintiff is a corporation incorporated in the state of Oregon, with its principal
6 place of business in the state of Oregon. Plaintiff is a citizen of Oregon.

7 2.

8 Defendant Barbara Norris (hereafter “Norris”) is an attorney licensed to practice
9 law in the state of Alaska. Based on reasonable knowledge, information, and belief, Norris
10 is a citizen and a resident of the state of Alaska.

11 3.

12 Defendant Law Office of Barbara A. Norris, LLC (hereafter “Norris LLC”) is a
13 limited liability company organized in Alaska, in the business of providing legal services
14 and advice to individuals and businesses. Based on reasonable knowledge, information,
15 and belief, Norris LLC is a citizen of Alaska. Based on reasonable knowledge,
16 information, and belief, Norris is an owner, representative, agent, and employee of Norris
17 LLC. The individual attorney Norris and her law firm Norris LLC may be collectively
18 referred to as “Norris.”

19 4.

20 Defendant Tonja Woelber (hereafter “Woelber”) is an attorney licensed to practice
21 law in the state of Alaska. Based on reasonable knowledge, information, and belief,
22 Woelber is a citizen and a resident of the state of Alaska.

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1 5.

2 Defendant Tonja Woelber, Attorney at Law, P.C. (hereafter “Woelber PC”) is a
3 professional corporation incorporated in Alaska, in the business of providing legal services
4 and advice to individuals and businesses. Based on reasonable knowledge, information,
5 and belief, Woelber PC is a citizen of Alaska. Based on reasonable knowledge,
6 information, and belief, Woelber an owner, representative, agent, and employee of Woelber
7 PC.

8 6.

9 Defendant Woelber & Passard, LLC (hereafter “Woelber LLC”) is a limited
10 liability company organized in Alaska, in the business of providing legal services and
11 advice to individuals and businesses. Based on reasonable knowledge, information, and
12 belief, Woelber LLC is a citizen of Alaska. Based on reasonable knowledge, information,
13 and belief, Woelber an owner, representative, agent, and employee of Woelber LLC. The
14 individual attorney Woelber and her two law firms Woelber PC and Woelber LLC may be
15 collectively referred to as “Woelber.”

16 **JURISDICTION AND VENUE**

17 7.

18 This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1332(a), as the
19 parties are completely diverse in citizenship and the amount in controversy exceeds
20 \$75,000.

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1 8.

2 Venue is proper in the District of Oregon pursuant to 28 U.S.C. § 1391(b) because a
3 substantial part of the events or omissions giving rise to the claims occurred in this district.

4 **GENERAL ALLEGATIONS**

5 9.

6 Defendants Norris represented and provided legal services to Client, in his
7 capacities as Personal Representative for the Estate of Mary Buza Jones (hereafter the
8 “Estate”) and as Conservator for the Conservatorship of Mary Buza Jones (hereafter the
9 “Conservatorship”). Defendants Norris also represented and provided legal services to the
10 initial conservator for the Conservatorship.

11 10.

12 Defendants Woelber represented and provided legal services to Client, in his
13 capacities as Personal Representative for the Estate and as Conservator for the
14 Conservatorship.

15 **FIRST CLAIM FOR RELIEF**

16 *(Negligence – Legal Malpractice)*

17 11.

18 Plaintiff realleges paragraphs 1-10 as if fully set forth against Defendants.

19 12.

20 Defendants were attorneys for Client, and each of the Defendants had obligations to
21 Client to reasonably investigate, assess and advise Client, and to use the degree of care,
22 skill and diligence that would be exercised by the average and reasonably prudent attorney.

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13.

Defendants were negligent in their representation of Client in one or more of the following ways, without limitation:

13.1. Defendants did not reasonably and correctly explain and advise Client about the legal matters and issues involving the Estate.

13.2. Defendants did not reasonably and correctly explain and advise Client about the legal matters and issues involving the Conservatorship.

13.3. Defendants did not reasonably and correctly explain and advise Client about the legal matters and issues involving property held by the Estate and the Conservatorship.

13.4. Defendants did not reasonably and correctly explain and advise Client about the legal matters and issues involving potential liabilities for collection or execution against the Estate and Client for tax liabilities against a beneficiary of the Estate.

13.5. Defendants did not reasonably and correctly explain and advise Client about the legal matters and issues involving a beneficiary of the Estate.

14.

As a result of one or more of these negligent acts by Defendants, the Client and the Estate have incurred, and continues to incur, economic damages in an amount not to exceed \$80,000 at this time, which is not fully liquidated and will be pled more specifically reasonably prior to trial, plus prejudgment interest.

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15.

As a result of Defendants' negligence the Client and Estate have been exposed to potential liabilities for collection or execution against the Estate and Client for tax liabilities owed by a beneficiary of the Estate, for which Defendants should be ordered to indemnify, hold harmless, and defend the Client and Estate from all collection, execution and creditor actions concerning the specified beneficiary against the Client and/or Estate.

SECOND CLAIM FOR RELIEF

(Breach of Fiduciary Duty)

16.

Plaintiff realleges paragraphs 1-10 as if fully set forth against Defendants.

17.

As attorneys for Client, each Defendant had fiduciary obligations to the Client to serve his and the Estate's best interests, to act with honesty, loyalty, make disclosures to Client, including conflicts of interest, and for each Defendant not to engage in any conflicts of interest.

18.

Each Defendant breached their fiduciary obligations to Client in one or more of the following ways, without limitation:

18.1. The Defendants failed to fully disclose any actual or apparent conflicts of interest which arose concerning their representation of Client.

18.2. The Defendants did not act with fidelity and loyalty to Client in failing to disclose financial liabilities for Client and the Estate, concealing facts about the financial

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1 liabilities, and acting with a conflict of interest after financial liabilities arose as a result of
2 one or more acts or omissions by Defendants.

3 18.3. The Defendants failed to make full and complete disclosure to Client about all
4 legal matters and issues concerning Client and the Estate.

5 18.4. The Defendants failed to act in the best interests of Client when giving legal
6 advice to or taking action on behalf of Client and the Estate.

7 19.

8 As a result of one or more of these acts and/or omissions by Defendants in breach
9 of their fiduciary duties to Client, Client and the Estate have incurred, and continue to
10 incur, economic damages in an amount not to exceed \$80,000 at this time, which is not
11 fully liquidated and will be pled more specifically reasonably prior to trial, plus
12 prejudgment interest.

13 20.

14 Client and the Estate have been exposed to potential liabilities for collection or
15 execution against the Estate and Client for tax liabilities a beneficiary of the Estate, as a
16 result of Defendants' breach of their fiduciary duties, for which Defendants should be
17 ordered to indemnify, hold harmless, and defend the Client and Estate from all collection,
18 execution and creditor actions concerning the specified beneficiary against the Client
19 and/or Estate.

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1 **THIRD CLAIM FOR RELIEF**

2 *(Breach of Agreement)*

3 21.

4 Plaintiff realleges paragraphs 1-10 as if fully set forth against Defendants Woelber
5 (including her two law firms Defendants Woelber PC and Woelber LLC).

6 22.

7 Defendants Woelber and Client entered into an attorney fee agreement for good and
8 valuable consideration regarding the legal representation of Client by Defendants Woelber,
9 which these Defendants drafted (hereafter the “Woelber Agreement”).

10 23.

11 The Woelber Agreement states that Defendants Woelber would obtain Court
12 approval prior to the distribution of a specified beneficiary’s share of the Estate.

13 24.

14 Defendants Woelber breached their contractual obligation by failing to obtain Court
15 approval prior to the distribution of the specified beneficiary’s share of the Estate.

16 25.

17 As a result of the breach of the contractual obligation by Defendants Woelber,
18 Client and the Estate have incurred, and continue to incur, economic damages in an amount
19 not to exceed \$80,000 at this time, which is not fully liquidated and will be pled more
20 specifically reasonably prior to trial, plus prejudgment interest.



1 26.

2 Client and the Estate have also been exposed to potential liabilities for collection or
3 execution against the Estate and Client for tax liabilities against a beneficiary of the Estate,
4 as a result of the breach of the contractual obligation by Defendants Woelber, for which
5 Defendants should be ordered to be indemnify, hold harmless, and defend Client and the
6 Estate from all collection, execution and creditor actions concerning the specified
7 beneficiary against the Client and/or Estate.

8 **FOURTH CLAIM FOR RELIEF**

9 *(Indemnity)*

10 27.

11 Plaintiff realleges paragraphs 1-10, 12-13, 17-18, and 23-24 as if fully set forth
12 against Defendants.

13 28.

14 Defendants Norris and Client entered into an agreement for good and valuable
15 consideration regarding the legal representation of Client by Defendants Norris (hereafter
16 the “Norris Agreement”).

17 29.

18 An agreement to perform services, such as the Woelber Agreement and Norris
19 Agreement to provide legal services to Client, contains an implied promise that the person
20 or entity will perform the services in a proper manner (without acting negligently,
21 breaching their fiduciary duties, or breaching any contractual duties), or the person or
22



1 entity will discharge foreseeable damages resulting from improper performance by
2 indemnifying, holding harmless, and defending their client.

3 30.

4 Defendants have not performed the services they were contracted to perform for
5 Client in a proper manner because they have acted negligently, in breach of their fiduciary
6 duties, and in breach of their contractual duties (as previously set forth and incorporated).

7 31.

8 Client and the Estate have also been exposed to potential liabilities for collection or
9 execution against the Estate and Client for tax liabilities against a beneficiary of the Estate,
10 as a result of Defendants' breach of their obligation to perform legal services in a proper
11 manner.

12 32.

13 Client has not acted negligently or otherwise participated in causing the damages
14 and potential liabilities.

15 33.

16 The damages and potential liabilities were foreseeable.

17 34.

18 As a result of Defendants' breach of their obligation to perform legal services in a
19 proper manner, Defendants should be ordered to be indemnify, hold harmless, and defend
20 Plaintiff from all collection, execution and creditor actions concerning the specified
21 beneficiary against the Client and/or Estate.

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4. On Plaintiff's Fourth Claim for Relief, Plaintiff should be ordered to be indemnified, held harmless, and defended by Defendants.

5. For Plaintiff's reasonable costs and disbursements; and

6. For such other relief as the Court determines is just and equitable under the facts of this case.

Dated this 1st day of February 2019.

/s/ Terrence Kay

Terrence Kay, P.C., OSB #814375

Matthew Chandler, OSB# 142931

Attorneys for Plaintiff

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